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STATE ELECTION COMMISSION,
U.T., CHANDIGARH

Notification

The 12th November, 2021

No. 6/1/MCCE/SEC/CHD/18/2021/409.—In exercise of the powers conferred under Rule 96 of the Municipal Corporation of Chandigarh (Election of Councillors) Rules, 1995 and all other enabling provisions in this behalf and in supersession of all previous orders in this context, the State Election Commissioner, U.T., Chandigarh, hereby makes the following order for fixation of maximum amount of election expenses for election to a ward of the Municipal Corporation of Chandigarh to be held hereafter and for the filing of return of election expenses, as under :—

1. The maximum limit of expenses which can be incurred or authorized by a candidate in connection with an election to a ward shall be **Rs. 5,00,000/- (Rupees Five Lakhs Only)**. The expenses incurred in respect of any arrangement made or facility provided by the Chandigarh Administration or by any office/ agency, bodies etc. of the Govt. or the Municipal Corporation of Chandigarh in connection with the said election shall not be included in the above-said expenses.
2. The candidate shall keep the correct account of election expenses on day-to-day basis between the dates on which he/she has been nominated and the date of the declaration of result, in the prescribed form. All the expenses incurred or authorized by the candidate in this regard and as mentioned in said form shall be supported by vouchers duly serially numbered and as entered in the above-said expenditure statement and also signed by the candidate in token of authenticity of vouchers shall be obtained from the party/supplier.
3. Every contesting candidate at an election to a ward, shall file the election expenses return with the concerned Returning Officer within 15 days from the date of the declaration of the result alongwith an affidavit, in the prescribed form.
4. The Returning Officer shall within two days from the date of the receipt of the account of election expenses of a candidate display a notice on his notice board specifying that inspection of the said account may be made and that any person interested to obtain a copy of such account may obtain the same on payment of a fee of Rs.10/- (Rupees Ten Only) from the concerned Returning Officer.
5. A candidate who fails to lodge the account of election expenses within the prescribed time and in the manner so prescribed without any valid reason or justification for the said failure shall be liable to face such penal actions as are prescribed in the I.P.C. & other relevant laws.

Signature Not Verified
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Jalinder Kumar
Date: 2021.11.17
15:54:08 IST
Reason: Published
Location:

(Sd.) . . . ,
(S.K. SRIVASTAVA),
State Election Commissioner,
U.T., Chandigarh.

(1321)

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CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT

Notification

The 12th November, 2021

No. 55568-FII(9)-2021/13219.—In accordance with the Guidelines issued by the Government of India vide D.O. letter No. 082/2/1/2020-CA.V, dated 24.12.2020, the Adviser to the Administrator, Union Territory, Chandigarh is pleased to constitute a dedicated team/task force for minimizing the Regulatory Compliance Burden constituted as under :—

Sr. No.	Designation at present	Designation
1.	Home Secretary-cum-Secretary Local Government	Chairman
2.	Commissioner, Municipal Corporation, Chandigarh	Member -Convenor
3.	Additional Commissioner -I M.C., Chandigarh	Member
4.	Additional Commissioner - II M.C., Chandigarh.	Member
5.	Joint Commissioner - I M.C., Chandigarh.	Member
6.	Joint Commissioner - II M.C., Chandigarh	Member
7.	Chief Engineer, M.C., Chandigarh	Member
8.	Computer Programmer M.C., Chandigarh	Member
9.	Sh. Ravish Kumar, Egis	Member
10.	Sh. Agney Singh, PwC	Member

NITIN KUMAR YADAV, IAS,
Secretary Local Government,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
HOME DEPARTMENT

Notification

The 11th November, 2021

LD-2021/14734.—In exercise of the powers conferred by sub-section (3) of Section 3 of the National Security Act, 1980, the Administrator, Union Territory, Chandigarh, hereby directs, the District Magistrate, Chandigarh, to make orders, directing any person to be detained under the said Act, with a view to preventing him/her from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to maintenance of supplies and services essential to the community.

This Notification shall remain in force for a period of three months, with effect from 26.11.2021.

DHARAM PAL, I.A.S.,
Adviser to the Administrator,
Union Territory, Chandigarh.

CHANDIGARH ADMINISTRATION
HOME DEPARTMENT

Notification

The 11th November, 2021

No. LD-2021/14725.—In exercise of the powers conferred by Section 9 of the Legal Services Authorities Act, 1987 (Central Act 39 of 1987) read with Rule 13 of the Chandigarh Legal Services Authorities Rules, 1997, the Administrator, Union Territory, Chandigarh, in consultation with the Chief Justice of the High Court of Punjab and Haryana at Chandigarh, hereby, reconstitute the District Legal Services Authority for the Union Territory of Chandigarh, consisting of the following members to exercise the powers and perform the functions conferred on or assigned to it under the said Act :—

Ex-official Members :

- | | | |
|---|----|----------|
| 1. District and Sessions Judge, Chandigarh | .. | Chairman |
| 2. Deputy Commissioner, Chandigarh | .. | Member |
| 3. Additional District and Sessions Judge-I, Chandigarh | .. | Member |
| 4. Senior Superintendent of Police, U.T., Chandigarh | .. | Member |
| 5. Chief Judicial Magistrate-Cum-Secretary, DLSA, Chandigarh | .. | Member |
| 6. District Attorney, U.T., Chandigarh | .. | Member |
| 7. Public Relation Officer, U.T., Chandigarh | .. | Member |
| 8. President, District Bar Association, Chandigarh | .. | Member |
| 9. Assistant District Attorney dealing with
Legal Aid Programmes at District Head Quarters | .. | Member |

Nominated Members :

- | | | |
|--|----|--------|
| 10. Dr. Satinder Kaur Sachdeva, Chairperson,
Child Welfare Committee, Chandigarh | .. | Member |
| 11. Sh. Jagannath Singh Jayara, Principal,
Institute for the Blind, Sector 26, Chandigarh | .. | Member |
| 12. Sr. Dr. Shyni Paul, Principal, St. Anne's
Convent School, Sector 32-C, Chandigarh | .. | Member |

The terms and condition will be as per the provisions of the Chandigarh Legal Services Authority Rules, 1997. The term of the nominated members from (10) to (12) shall be two years with effect from the date of issuance of notification.

(By order and in the name of the Administrator,
Union Territory, Chandigarh)

Chandigarh :
The 3rd November, 2021.

NITIN KUMAR YADAV,
Home-cum-Law Secretary,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 2nd November, 2021

No. 13/1/9807-HII(2)-2021/12753.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 124/2016, dated 20.09.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

SURINDER SINGH S/O SHRI GURDEV SINGH, R/O VILLAGE GHURALA, TEHSIL DAYAL, DISTRICT LUDHIANA, PUNJAB (Workman)

AND

1. DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, ADDRESS PLOT NO.701, INDUSTRIAL AREA, PHASE - I, CHANDIGARH.
2. DIRECTOR TRANSPORT, UNION TERRITORY, ADDRESS PLOT NO.701, INDUSTRIAL AREA, PHASE - I, CHANDIGARH. (Management)

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in brief is that the Chandigarh Transport Undertaking (*hereinafter called 'CTU'*), which is a public undertaking owned and run by the Union Territory Administration, Chandigarh, there was an acute shortage of Drivers and as a result thereof, the Drivers had to perform double duty and were being paid overtime. To cope with shortage of Driver, the CTU issued an advertisement in the 'Punjabi Tribune' Chandigarh dated 11.10.2003, whereby 45 vacancies of Drivers were advertised on contract basis. The workman being fully eligible applied for the post of bus Driver, his name was recommended by the Employment Exchange. He was called for Dug Test and Road Test and was called for interview in May 2004. The workman being successful, was selected and appointed as Driver *vide* appointment letter dated 28.06.2004. Thereafter the workman was subjected to medical test and he was also imparted traffic education on 28.06.2004. The appointment of the workman was made after following the due procedure of law and by considering other candidates, who had applied in pursuance to the advertisement, recommended by the Employment Exchange. Terms of contract of the workman was extended from time to time. Last extension order was issued by the CTU *vide* order No.4394/ECD/HOD/CTU/2006, dated 07.04.2006. The workman had performed his duties to the entire satisfaction of his superiors and there is nothing adverse against him and he was deputed on local / long route bus. The workman had performed his duties upto 27.04.2006 and in the evening of 27.04.2006, his services have been ordered to be terminated by stating that since the regular appointment of Bus Drivers in SC / OBC category have been made so the contract of the workman stand terminated. As on date also various posts of Drivers are lying vacant so his services cannot be terminated. The workman was also not paid retrenchment compensation and neither any notice for retrenchment was issued. The management has not complied with the provisions of Section 25-F & 25-N of the ID Act and had not sought mandatory permission from the appropriate authority before terminating the services of the workman. The management had not complied with the provisions of Section 25-G & 25-H of the ID Act as

many fresh persons as Drivers were appointed without offering the same post to the workman being retrenched employee. Action of the management is illegal & violative of Article 14 & 16 of the Constitution of India. The workman had become now overage to seek employment elsewhere. He is the only bread earner in his family and with his illegal termination his family has been ruined. The management has also not paid gratuity to the workman on his illegal termination. The claim of the workman is squarely covered by the award dated 27.02.2013 published *vide* notification No.13/1/8640-HII(2)-2013/9958, dated 29.05.2013 passed the then Presiding Officer, Industrial Tribunal & Labour Court, Union Territory Chandigarh, whereby the claim of similarly situated employees have been accepted and the said award has also been implemented by the management. Termination of the workman is also not justified as work is available with the management and after termination of his service the contractual staff has been engaged in violation of settled law that the contractual employees cannot be replaced by another contractual employee and when the work is of permanent nature. Ultimately, it is prayed that the workman be reinstated into service along with continuity of service and back wages along with interest.

3. The management contested the case of the workman and filed written statement raising preliminary objection that the claim of the workman is highly belated as his services were dispensed with *vide* office order dated 27.04.2006 and the present claim has been filed in the year 2016 i.e. after 10 years of cause of action. On merits, it is pleaded that there was no issue of shortage of Drivers and over time as well with the management. Advertisement with regard to recruitment of 45 Drivers on the contract basis was made *vide* notice dated 11.10.2003. An order of appointment *vide* office order No.196/ECD/CTU/HOD/2004, dated 28.06.2004 was issued for appointment of the workman on the basis of recommendations in the interview held on 18.05.2004 for enrollment / engagement on contract basis for the post of Bus Driver. It was contemplated in the appointment order of the workman that he was engaged purely on the contract basis for a period of 89 days or till the regular incumbents, whichever is earlier. Further it was made clear that his services shall automatically stand discontinued after expiry of contract period, without assigning any notice and no compensation of any type will be admissible to him on account of discontinuation of his contractual services. Terms of the contract were extended from time to time. The workman had performed his services under the stop gap arrangement. The services of the workman were dispensed with *vide* office order dated 27.04.2006. As per Clause 5 of the appointment order, the services of the contractual Drivers can be dispensed with at any time without assigning any reason or without giving any notice. Services of the workman have been dispensed with, as per the terms & conditions of the contract and the workman is not entitled to get any type of relief from this Court. The award dated 27.02.2013 passed by this Court is not applicable in this case. The management had also recruited Drivers on contract basis in the year 1999 apart from the batch of the workman on the same terms & conditions and their services were dispensed with according to the terms & conditions of the contract but they approached before the Hon'ble Central Administrative Tribunal (CAT) by filing original applications through OANo.1159/CH/2004 which was disposed of *vide* order dated 24.05.2006 with the directions to the management to continue the services of the contractual Drivers against the vacant post till the regular incumbents are appointed. Some of the contractual Drivers approached this Court by different references and one of the references was disposed of *vide* award dated 27.02.2013 whereby the workmen were ordered to be reinstated with 50% back wages only against the vacant post on regular basis. But at the time of termination of the contract of the workman no vacant post was available with the answering management. Other averments of the case of the workman were denied and ultimately, it is prayed that claim of the workman be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether the claim of the workman is barred by delay & laches ? OPM
3. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. Learned representative for the workman closed the evidence. On the other hand, the management examined Smt. Jyoti Sareen - Senior Assistant as MW1. Learned Law Officer for the management closed the evidence.

6. I have heard learned representative for the workman and learned Law Officer for the management and have gone through the file carefully. My findings on the issues framed in this case are as follows:-

Issue No.1 :

7. Onus to prove this issue was on the workman and to discharge the same the workman examined himself as AW1 and deposed that the CTU is a public undertaking owned and run by the Union Territory Administration, Chandigarh. There was an acute shortage of Drivers so the Drivers had to perform double duty and were being paid overtime and to cope with the same, the CTU issued an advertisement in the 'Punjabi Tribune' Chandigarh dated 11.10.2003 whereby 45 vacancies of Drivers were advertised on contract basis. He being fully eligible applied for the post of Bus Driver and his name was recommended by the Employment Exchange. He was called for dug test and road test and called for interview in May 2004. He was selected & appointed as Driver *vide* appointment letter dated 28.06.2004, subject to medical test. He was also imparted traffic education on 28.06.2004. He further deposed that his appointment was made after following due procedure of law. Terms of contract was extended from time to time and last extension order was issued by the CTU *vide* order No.4394/ECD/HOD/CTU/2006 dated 07.04.2006. His identity card was extended upto 07.07.2008. He had performed his duties to the entire satisfaction of his superiors. He further deposed that he had performed his duties upto 27.04.2006, and in the evening of 27.04.2006, his services have been ordered to be terminated by stating that since the regular appointments of Bus Driver in SC / OBC category have been made so his contract stand terminated. As on date various posts of Drivers are lying vacant so his services cannot be terminated. He was also not paid retrenchment compensation and no notice for retrenchment was issued. The management has not complied with the provisions of Section 25-F & 25-N of the ID Act and not sought mandatory permission from the appropriate authority before terminating his services. The management has also complied with the provisions of Section 25-G & 25-H of the ID Act as fresh Drivers were appointed without offering the same post to him being retrenched. Action of the management is illegal & violative of Article 14 & 16 Constitution of India. He further deposed that his claim is squarely covered by the award dated 27.02.2013 published *vide* notification No.13/1/8640-HII(2)-2013/9958, dated 29.05.2013.

8. Learned representative for the workman has argued that as per the advertisement in 'Punjab Tribune' newspaper the workman applied for the post of Driver and recommended by the Employment Exchange thereafter in May 2004 a road test was conducted and he was called for interview in May 2004 and being successfully he was appointed on 28.06.2004 and his medical tested was conducted and imparted traffic deduction on 28.06.2004. He further argued that on 27.04.2006 the workman performed his duties and in the evening of 27.04.2006 his services have been terminated by stating that since the regular appointment of the Bus Driver in SC / OBC category have been made therefore contract of the workman stands terminated. The services of the workman cannot be terminated as various posts are lying vacant the workman has also not been paid retrenchment compensation. No notice for retrenchment compensation was issued. The management has not complied with the provisions of Section 25-F & 25-N of the ID Act. The management has also not complied with the provisions of Section 25-G & 25-H of the ID Act. The case of the workman is clearly covered by the award dated 27.02.2013 published *vide* notification No.13/1/8640-HII(2)/2013/9958, dated 29.05.2013 passed by the Presiding Officer, Industrial Tribunal & Labour Court, Union Territory Chandigarh. Hence, the termination of the workman is illegal. He prayed for deciding this issue in favour of the workman.

9. On the other hand, learned Law Officer for the management has examined Smt. Jyoti Sareen - Senior Assistant as MW1, who deposed that the workman was appointed by the management purely on the contract basis vide appointment order No.196/ECD/CTU/HOD/2004, dated 28.06.2004. The services of the workman were hired purely on temporary basis for specific period or till the regular incumbents join the department. Terms & conditions of the appointment order were adduced in writing which were duly accepted by the workman. As per appointment order, the contractual appointment will not confer any right for regular appointment with the management and the services of the workman can be dispensed with at any time without assigning any reason or without giving any notice. She further deposed that terms of the contract were extended from time to time and the workman had performed his services under the stop gap arrangement. The services of the workman were dispensed with *vide* office order dated 27.04.2006. As per Clause 5 of the appointment, the services of the contractual Drivers can be dispensed with any time without assigning any reason or without giving any notice. She further deposed that the award dated 27.02.2013 passed by this Court is not applicable in the present case as at the time of termination of the contract of the workman, no vacant post was available with the management.

10. Learned Law Officer for the management has argued that the workman has been appointed on the contract basis and he was not terminated rather his services were dispensed with, on appointment of Bus Drivers on regular basis, as per terms & conditions of the appointment letter. Hence, the workman is not entitled for any retrenchment compensation and he prayed for deciding this issue against the workman and in favour of the management.

11. After giving my careful consideration to the rival contentions of both the sides, I find that admittedly the workman was appointed by the management purely on contract basis *vide* order No.196/ECD/CTU/HOD/2004, dated 28.06.2004. It is also not disputed the terms of the workman was extended from time to time. The main grudge of the workman is that he has been terminated without any notice and he has not been given any retrenchment compensation and he is totally relying upon the award dated 27.02.2013 published *vide* notification No.13/1/8640-HII(2)-2013/9958, dated 29.05.2013 passed the then Presiding Officer, Industrial Tribunal & Labour Court, Union Territory, Chandigarh.

12. The workman has duly proved on record Exhibit 'AW1' which is bio-data of the workman, Exhibit 'AW2' medical examination of the workman, Exhibit 'AW3' order of appointment dated 28.06.2004 i.e. through which the workman was engaged as Bus Driver on contractual basis for a period of 89 days or till the regular appointment of the candidate belong to the SC / OBC as Bus Driver whichever is earlier, Exhibit 'AW4' letter with regard to information regarding traffic education to CTU Bus Driver, Exhibit 'AW5' copy of 'Punjab Tribune' newspaper edition through which the advertisement regarding appointment of 45 Drivers on contract basis was advertised, Exhibit 'AW6' copy of order No.1121/ECD/CTU/HOD/2005, dated 01.04.2005, Exhibit 'AW7' copy Chandigarh Administration Gazette dated 29.05.2013.

13. The workman himself is stating that he has been dispensed / terminated from service on 27.04.2006 whereas he has joined on 07.04.2006 as per order No.4394/ECD/HOD/CTU/2006, dated 07.04.2006 and he has relied upon identity card which has been extended on 07.07.2008. Firstly, the workman failed to prove and produce on record in order No. 4394/ECD/HOD/CTU/2006, dated 07.04.2006 through which the service / contract of the workman was extended for further 89 days and no identity card has been proved on record

through which it can be ascertain that the contract of the workman has been extended upto 07.07.2008. The workman has only proved on record Exhibit 'AW3' i.e. order No.196/ECD/CTU/HOD/2004, 28.06.2004 in which he has been appointed on purely on contractual basis for 89 days thereafter one order dated 01.04.2005 Exhibit 'AW6' through which the contract of the workman was extended for a period of 89 days i.e. 02.04.2005 to 29.06.2005. Hence, no order with regard to extension from 07.04.2006 placed on record.

14. Arguments addressed by the workman that it is admitted by the management witness that the contract of the workman was extended from time to time. I have gone through the cross-examination of MW1. MW1 during her cross-examination admitted that initially the contractual appointment was for 89 days and it was extended from time to time after gap of two three days. Hence, MW1 simply admitted with regard to extension of 89 days but has not directly admitted contractual extension for the period from 07.04.2006. Document with regard to extension of contractual period from 07.04.2006 has not been proved on file that document is very much material to pursue from which date the workman further joined the services.

15. Further it is stand of the workman that on 27.04.2006 he performed the duties and in the evening his services have been terminated by stating that regular appointment of SC / OBC category has been made. The workman himself while stepping into the witness box as AW1 admitted this fact in his cross-examination that the department has terminated his services along with other Driver in the year 2007 on joining of regular incumbents. Meaning thereby the services of the Driver has been terminated on joining of regular appointment. Further this fact is very well made clear in the order dated 28.06.2004 Exhibit 'AW3' that **the services of the workman shall automatically stand discontinued after expiry of contract period, without assigning any notice and no compensation of any type will be admissible to them on account of discontinuation of his contractual services.** Similarly, in order dated 01.04.2005 Exhibit 'AW6' it is also mentioned that the terms & conditions of appointment will remain the same as laid down in the appointment letter bearing No.196/ECD/HOD/CTU/2004, dated 28.06.2004. So it is crystal clear from the aforesaid discussion that the workman has failed to prove any documentary proof with regard to extension of his service whereas as per order of Exhibit 'AW3' the management has terminated the services of the workman as per appointment as regular appointment already been joined on the same day on which date the workman alleged to terminated from the services. Hence, the workman is not entitled for retrenchment compensation. Arguments of the workman that his case is totally covered under the award dated 27.02.2013 does not inspire confidence as in that case the contractual Drivers were ordered to be reinstated as regular vacancies were lying **at that time** but in the present case in hand there is nothing on the file that **regular vacancies were existed at the time of termination of the workman** rather it is admitted by the workman himself regular appointment have been made on the same day when his termination has been made. Hence, termination is not illegal. This issue is decided against the workman and in favour of the management.

Issue No. 2 :

16. Onus to prove this issue was on the management. Learned representative for the management has argued that the present claim of the workman is not maintainable being highly belated. Impugned order was passed in the year 2006 whereas the present claim challenging the same was filed after 10 years of cause of action. On the other hand, there is no bar of limitation to challenge termination under the ID Act.

17. I have considered the submission of learned Law Officer for the management and learned representative for the workman. Admittedly, the services of the workman were terminated in the year 2006 and the demand notice, on the basis of which the present industrial dispute has been raised and statement of claim filed, was filed 16.08.2015. Although there is no time limit to make reference under Section 10 of the ID Act but **there must be reasonable justification under for the delay.** In this regard reliance is made on citation titled as **Nedungadi Bank Limited Versus K. P. Madhavan Kutty, 2000(3) Vol.75 All India Services Law Journal 22 (SC)** wherein the Hon'ble Supreme Court of India as held as under :—

"5. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising an industrial was ex facie bad and incompetent."

Further, similar views have been observed in citation **Prithvi Singh Versus Executive Engineer, HPSEB Limited, Division Rajgarh, District Sirmaur, H.P. & Others, CWP No.4847 of 2015 decided on 26.08.2019 by Hon'ble Himachal Pradesh High Court.** In the present case in hand, no reasonable justification has been put forth by the workman for challenging his termination after more than nine years. In the light of law laid down and discussion made above, the present claim of the workman is barred by delay and laches. Accordingly, this issue is decided in favour of the management and against the workman.

Relief :

18. In the light of findings on the issues above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 20th September, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 14th October, 2021

No. 13/1/9800-HII(2)-2021/11647-A.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 95/2018, dated 11.09.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

ANIL KUMAR S/O SHRI KALYAN SINGH, HOUSE NO. 24, VILLAGE MAKHAN MAJRA,
CHANDIGARH (Workman)

AND

1. EXECUTIVE ENGINEER, PROJECT PUBLIC HEALTH, DIVISION NO.3, SUB-DIVISION NO.6, SECTOR 12, CHANDIGARH.
2. R. R. BUILDERS, HOUSE NO.437, SECTOR 46-A, CHANDIGARH (Management)

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in nutshell is that he was in service since 14.08.2015 and was performing the duties of Driver on the vehicles being maintained and run by management No.1. He was working at the premises and under the direct control & supervision of management No.1. On 03.04.2018, management No.2 informed him that his services has been terminated and no longer required. The management had violated the provisions of Section 25-F, 25-G & 25-H of the ID Act.

3. Management No.1 contested the case of the workman and filed written statement that the work of providing the services of Driver for running maintenance of Government vehicle under maintenance booth FJ-13, Chandigarh was allotted to the service provider i.e. M/s R. R. Builders, management No.2 and staff have been provided by the agency at his own level, as per terms & condition of the allotment. There is no relationship of any sort between the answering management and any of the workman of the contractor so no question arises for termination of the services of the workman in any manner by the answering management.

4. None appeared on behalf of management No.2 so management No.2 was proceeded against *ex parte*. The workman filed the replication reiterating the averments of his case and denied the averments made in written statement. From the pleadings of the parties, following were framed :—

1. Whether there is no employer-employee relationship between management No.1. and workman ? OPM-1
2. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
3. Relief.

5. During the pendency of the present industrial dispute, learned representative for the workman made the following statement :—

"I do not press the present industrial dispute at this stage. The present industrial dispute may be disposed off accordingly."

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Thereafter the case taken in Lok Adalat. In view of the above statement of learned representative for the workman, the present industrial dispute is disposed off being not pressed for. Appropriate Government be informed. File be consigned to the record room.

The 11th September, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 25th October, 2021

No. 13/1/9798-HII(2)-2021/12135.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 91/2018, dated 11.09.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

SHAKUNTALA DEVI W/O SHRI ANIL KUMAR, R/O HOUSE NO. 3359, MAULI JAGRAN COMPLEX, UNION TERRITORY CHANDIGARH (Workman)

AND

PARABHA ELECTRONICS (P) LIMITED, 209, INDUSTRIAL AREA, PHASE - I, UNION TERRITORY, CHANDIGARH THE MANAGING DIRECTOR/PROPRIETOR PARTNER (Management)

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in nutshell is that she joined the services of management with effect from 03.10.2012 as Helper and worked continuously without any break or interruption in service till 15.01.2018. On 16.01.2018 the management's official did not allow her to join her duties. The management has violated the provisions of Section 25-F and 25-G of the ID Act.

3. The management contested the case of the workman and filed written statement that the workman joined the service of the management on 13.03.2016 and worked upto 15.01.2018. From 16.01.2018, she started absents from duty without any intimation, permission or sanctioned leave and she is still absents. The services of the workman were never terminated.

4. The workman filed replication reiterating the averments of her case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW
2. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. During the pendency of the present industrial dispute, the workman made the following statement :—

"I have settled my dispute with the management and had received a sum of Rs.12,500/- from the management towards full & final settlement of my claim. I am left with no right or claim whatsoever against the management including the right of reinstatement. My present industrial dispute may kindly be disposed off accordingly."

Thereafter the case taken up in Lok Adalat. In view of the above statement of the workman, the present industrial dispute is disposed off as settled by way of compromise. Appropriate Government be informed. File be consigned to the record room.

The 11th September, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 25th October, 2021

No. 13/1/9799-HII(2)-2021/12133.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 38/2019, dated 11.09.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

NARINDER KUMAR S/O SHRI JAIPAL R/O MIRPUR JAROOT, DISTRICT SAS NAGAR (Workman)
AND

1. CHIEF ENGINEER, PUBLIC HEALTH, UNION TERRITORY, SECTOR 9, CHANDIGARH.
2. SUPERINTENDING ENGINEER, PUBLIC HEALTH, UNION TERRITORY, SECTOR 9, CHANDIGARH.
3. EXECUTIVE ENGINEER, PROJECT FH DIVISION NO.3, 4TH FLOOR, STUDY DELUXE BUILDING, SECTOR 9, CHANDIGARH.
4. SUB-DIVISIONAL ENGINEER, SUB-DIVISION NO.6, SECTOR 12, CHANDIGARH.
5. JAI MAA ENTERPRISES, SCO NO.60, SWASTIC VIHAR, MDC, SECTOR 5, PANCHKULA THROUGH ITS PROPRIETOR.
6. R. R. ENTERPRISES, HOUSE NO.792, SECTOR 9, PANCHKULA THROUGH ITS PROPRIETOR (Management)

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in nutshell is that he was in service since 13.06.2013 and was performing the duties of Operating Tubewell being maintained and run by management No.1 to 4 through initially by management No.5 and thereafter by management No.6 at Moli Jagran Part - II, Small Flats, Housing Board, Chandigarh. On 19.05.2018 the workman was not allowed to enter the premises. The deliberate refusal of management to the workman to perform his normal duties amounts to illegal termination and is violative of provisions of Section 25-F, 25-G & 25-H of the ID Act.

3. Management No. 1 to 4 contested the case of the workman and filed written statement that the Chandigarh Housing Board, Chandigarh handed over the services like water supply sewerage storm water drainage including services of tubewell operators and chowkidars *vide* endorsement No.5439, dated 05.10.2016 and prior to that the workman was working under the control of Chandigarh Housing Board through outsource system and M/s Jai Maa Enterprises run the work under Chandigarh Housing Board. New tenders have been allotted to M/s R. R. Enterprises and the strength of tubewell operators was reduced from 94 to 92 as per site requirements. Four post of Chowkidars have been abolished so the workman was relieved by the contractual agency. The workman was engaged by the contractor so management No.1 to 4 has never terminated his services.

4. During the pendency of the present industrial dispute, learned representative for the workman made the following statement :—

"I do not press the present industrial dispute, at this stage. The same may kindly be disposed off accordingly with a liberty to file fresh one."

Thereafter the case taken up in the Lok Adalat. In view the above statement of learned representative for the workman, the present industrial dispute is disposed off being not pressed for with a liberty to file fresh one. Appropriate Government be informed. File be consigned to the record room.

The 11th September, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0095.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 11th November, 2021

No. 13/1/9327-HII(2)-2021/13169.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 62/2014, dated 24.09.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

SR. VICE PRESIDENT / SECRETARY, PUNJAB ROADWAYS SCHEDULED CASTE EMPLOYEES UNION (REGD.), PUNJAB ROADWAYS, CHANDIGARH, R/O HOUSE NO. 1457/6, SECTOR 29-B, CHANDIGARH THROUGH SHRI D. R. KAITH & VISHAL GUPTA, AUTHORISED REPRESENTATIVE IN RESPECT OF SHRI BRIJ MOHAN, DRIVER NO. 557/96, PUNJAB ROADWAYS, CHANDIGARH (Workers' Union)

AND

1. DIRECTOR STATE TRANSPORT, PUNJAB, CHANDIGARH.
2. GENERAL MANAGER, PUNJAB ROADWAYS, CHANDIGARH.
3. GENERAL MANAGER, PUNJAB ROADWAYS, NAWASHAHAR (Management).

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9327-HII(2)-2014/12990, dated 11.07.2014.

AWARD

1. Below mentioned Reference bearing Endorsement No.13/1/9327-HII(2)-2014/12992, dated 11.07.2014 received from the Secretary Labour, Chandigarh Administration is being disposed of :—

"Whether the demand raised in the demand notice dated 10.04.2013 by the Sr. Vice President/ Secretary of the Punjab Roadways Scheduled Caste Employees Union (Regd.), Punjab Roadways, Chandigarh, R/o House No.1457/6, Sector 29-B, Chandigarh through D.R Kaith & Vishal Gupta, Authorized Representative in respect of Sh. Brij Mohan, Driver No.557/96, Punjab Roadways, Chandigarh to (1) The Director State Transport Punjab at Chandigarh (2) The General Manager, Punjab Roadways, Chandigarh and (3) The General Manager, Punjab Roadways, Nawashahar are genuine and justified. If so, to what effect and to what relief the Union/Worker are entitled to, if any ?"

2. The Senior Vice President / Secretary, Punjab Roadways Scheduled Caste Employees Union, Punjab Roadways, Chandigarh (*hereinafter called "workers' union"*) had served demand notice

dated 10.04.2013 in respect of Shri Brij Mohan - Driver No.557/96, Punjab Roadways, Chandigarh (*hereinafter called "workman"*) upon the Director State Transport, Punjab & Others (*hereinafter called "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter called "ID Act"*). Upon notice, the workers' union appeared through its representative. Demand notice was ordered to be treated as statement of claim. Case of the workers' union in brief is that the workman was charge sheeted as per charge sheet dated 04.05.2005 on the allegations that the bus of the workman met with accident on 09.06.2000 while on route from Chandigarh to Jalandhar at Balachaur. In the accident one passenger was injured, who later on filed claim before MACT, Chandigarh and the Court awarded him compensation of ₹ 59,444/- with interest. The accident took place due to negligence of the workman. The workman replied to the charge sheet and stated that passenger did not fall from the bus due to negligence of the workman rather he fall on the road before boarding in bus and got injuries due to his own fault for which the workman is not at fault. The punishing authority without properly appreciating the reply of the workman ordered for regular departmental inquiry. The Inquiry Officer did not conduct the inquiry in a fair & proper manner and inspite of the fact that no material was brought by the department on record during inquiry except the copy of award held the workman guilty only on the basis of the award of the MACT. Only Shri Jatinder Kumar, Law Officer appeared as departmental witness and placed on record copy of award only and admitted that he was not the eye witness. The workman again made a detailed representation against the findings of the Inquiry Officer but without appreciating the representation of the workman the punishing authority passed a punishment order dated 11.10.2007 / 18.10.2007 whereby one increment of the workman was stopped with cumulative effect, which is illegal, arbitrary, unjust and against the rules so the same deserves to be set aside on the grounds that the charge sheet against the workman is misconceived and false and not based on true facts. There was no evidence before the Inquiry Officer except the copy of MACT award only. The award of the MACT is only hearsay evidence and cannot be accepted as legal evidence. The Inquiry Officer in arbitrary manner ignored the defence evidence and findings of the Inquiry Officer are perverse and based on no evidence. The Inquiry Officer has not conducted the inquiry in a fair & proper manner. The department has specifically taken the stand in the written statement filed before MACT that Driver / workman was not at fault so subsequently department cannot take a different stand and punish workman without any evidence. As per law it is the vicarious liability of the state to bear the loss if some damage is caused by its employee during the course of his service. The Punjab Roadways Union raised the demands that all buses of Punjab Roadways be got insured because it is the statutory duty of the employer to get the buses insured against the third party risk in order to avoid the loss to the department as well as hardship to the Drivers. Thereafter the meeting of the union and management has been held wherein the management had agreed to create special funds as per the mandate of Section 146 of the Motor Vehicle Act and it was assured that in future all the awards of MACT will be satisfied out of that funds and no recovery will be effected from the Drivers. In compliance of the agreement between the union and management the recoveries were stopped against the Drivers and in consonance with that instruction dated 24.11.2000 and 24.01.2001 were issued but now in defiance of that agreement the management had again started effecting the recoveries which is illegal and against the agreement between the Punjab Roadways Employees and the management. The department had recently issued instructions dated 18.11.2011 not to effect any recovery from the Driver on the basis of MACT award. The punishing authority has not considered the defence of the workman and has also not given any reasoning for rejection of the defence of the workman. The punishment order is illegal as the punishing authority had not applied its independent mind. Evidence as recorded during MACT proceedings cannot be relied upon by the Inquiry Officer in departmental inquiry unless and until eye-witnesses of accident are produced during the inquiry proceedings and accident is proved in accordance with law as per provisions of the Evidence Act. The judgment relied upon by the appellate authority is not applicable in this case as the same is based on entirely different facts. Orders of the punishing authority as well as the appellate authority are illegal as the management had implemented the judgment in case of Mehar Singh, Rajinder Singh, Raj Singh etc. and have withdrawn similar orders. Passing of punishment order against the workman is discriminatory and deserves to be declared illegal. In similar circumstances the management had also chargesheeted Sukh Ram Driver No.88 and Dharampal Driver No.113, Punjab Roadways, Nawashahar and Gajjan Singh Driver No.22, Khem Singh Driver No.14/212 and Bir Singh Driver No.39 of Punjab Roadways, Chandigarh and many other Drivers similarly situated, but in their cases after receiving their replies similar to that of the workman, exonerated them in the same set of facts and circumstances and no

punishment orders were passed against them. Ultimately, it is prayed that punishment order dated 11.10.2007/18.10.2007 be set aside and monetary benefits to the workman along with interest at the rate 9% per annum from the date of accrual of the same till its actual payment.

3. The management contested the case of the workman and filed written statement raising preliminary objection that the workman had challenged the order which has been passed in the year 2009 and have served the demand notice in the year 2013. The reference is bad for non-joinder and mis-joinder of necessary parties as State of Punjab through Secretary State Transport is not impleaded as necessary party. On merits, it is pleaded that the workman was chargesheeted with the allegations that the bus of the workman met with an accident in which one person was injured and claim petition was filed by the injured in the Hon'ble Court of MACT, Chandigarh and Court awarded ₹ 59,444/- as compensation which was paid by the State of Punjab to the claimant. After the decision of the MACT, Chandigarh departmental inquiry was started as per Punjab Civil Services (Punishment & Appeal) Rules, 1970. The inquiry was conducted by the Inquiry Officer was fair & legal according to the rules & regulations. Proper opportunity was granted to the workman to defend his case as he was given chance to cross-examine the witnesses of the State and the Inquiry Officer gave his findings holding the workman guilty of causing accident. Order passed by the competent punishing authority is fair & legal and as per the rules laid down in Punjab Civil Services Rules. The Hon'ble MACT Court held the workman guilty of causing accident and after that departmental inquiry was initiated against the workman as per rules. In the written statement filed by the department, the department had submitted that there is no fault of the Driver but at the time of judgment the Hon'ble Court held the workman guilty of causing accident and after the decision given by the Hon'ble Court the departmental inquiry was initiated against the workman as laid down under Punjab Civil Services Rules. Even if the State is vicarious liable for the payment of compensation under the Motor Vehicle Act and contingency fund is maintained by the State Government in terms of Section 146(2) of Motor Vehicle Act, there is no bar taking action under Rule 5 of the Service Rules against the delinquent official for causing accident. In MACT cases the State Government has maintained MTRF Funds as per the mandate under Motor Vehicle Act. The punishing authority has passed the order after considering the defence of the workman. Full opportunity was granted to the workman to defend his case and has been passed according to the rules & regulations laid down in service rules. The MACT Court has held the workman guilty and decision of MACT Court is fully binding upon the workman. Charge of negligence has been proved against the workman and findings of the MACT Court is fully binding upon the workman. No discrimination has been done with the workman and action of the punishing authority is not hit by the Article 14 and 16 of the Constitution as the workman was given full opportunity to defend his case. Orders passed by the punishing authority as well as appellate authority are legal, valid, proper and are binding upon the workman. Other averments of the case of the workers' union were denied and ultimately, it is prayed that the reference be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the demand raised in the demand notice dated 10.04.2013 by the Sr. Vice President of the Punjab Roadways Scheduled Caste Employees Union (Regd.), Punjab Roadways, Chandigarh R/o H. No.1457/6, Sector 29-B, Chandigarh through D. R. Kaith & Vishal Gupta, Authorised representative in respect of Shri Brij Mohan, Driver No.557/96, Punjab Roadways, Chandigarh to (1) The Director State Transport, Punjab at Chandigarh (2) The General Manager, Punjab Roadways, Chandigarh and (2) The General Manager, Punjab Roadways, Nawashahar are genuine & justified, if so, to what effect and to what relief the union / workers are entitled to, if any ?
2. Relief.

5. During the pendency of the present reference *vide* order dated 15.11.2017, the reference was adjourned *sine die* by the then Presiding Officer and on the application dated 30.03.2021 moved by the learned representative for the workers' union for revival of the reference and deciding the same, the reference was revived from the stage, at which the same was *sine die*.

6. In support of the case, the workers' union examined the workman AW1 and closed the evidence. On the other hand, learned Law Officer for the management tendered into evidence attested copy of inquiry file and show cause notice. Learned Law Officer for management No.1 to 2 closed the evidence.

7. I have heard the learned representative for the workers' union and learned Law Officer for management No.1 to 3 and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

Issue No.1 :

8. In support of the case, the workers' union examined the workman as AW1, who deposed that he was charge sheeted on 04.05.2005 on the allegation that his bus met with accident on 09.06.2000 while on route from Chandigarh to Jalanadhar at Balachaur. In the accident one passenger was injured, who filed MACT case and the Court awarded compensation of ₹ 59,444/-. No FIR was registered in this case. He filed reply to the charge sheet that the passenger did not fell from the bus due to his negligence rather passenger fall on the road before boarding in bus and got injuries due to his own fault. He further deposed that the punishing authority without properly appreciating the reply ordered the regular departmental inquiry. The Inquiry Officer did not conduct the inquiry in a fair & proper manner and in spite of the fact that no material was brought by the department on record except one copy of award held himself guilty on the basis of findings given in the award of MACT. He further deposed that only witness Shri Jitender Kumar - Law Officer appeared in the inquiry proceedings and there was no evidence before the Inquiry Officer regarding any accident. He made representation against the findings of the Inquiry Officer but without appreciating it the punishing authority passed punishment order dated 11.10.2007 / 18.10.2007 whereby one increment of himself was stopped with cumulative effect. He further deposed that against the punishment order he filed an appeal. The appellate authority without appreciating the grounds of appeal dismissed the appeal *vide* order dated 16.03.2020. Copy of grounds of appeal and copy of order dated 16.03.2020 are Exhibit 'W1' & 'W2'. He further deposed that the Punjab Roadways raised the demand that all the bus of Punjab Roadways be got insured so it is the statutory duty of the employer to get the buses insured against the third party risk and it had been agreed by the management to create special funds as per mandate of Section 146 of the Motor Vehicle Act and it was insured that in future all the awards of MACT will be satisfied out of that funds and no recovery will be affected from the Driver. He further deposed that in compliance of the agreement between the union and the management instructions dated 24.11.2000 and 24.01.2001 were issued. Copy of instructions dated 24.11.2000 and 24.01.2001 and 18.11.2011 is Exhibit 'P3' to 'P5'. He further deposed that in similar circumstances the management had also chargesheeted Sukh Ram - Driver No.88 and Dharampal Driver No.113, Punjab Roadways, Nawashahar and Gajjan Singh - Driver No.22, Khem Singh - Driver No.14/212 and Bir Singh - Driver No.39 of Punjab Roadways, Chandigarh and many other Drivers similarly situated but in their cases after receiving replies similar to that of him, the management exonerated them on the same set of facts & circumstances and no punishment order was passed against them. He further deposed that action on the part of the management is discriminatory so punishment order deserves to be declared illegal. Similar orders passed by the management have declared illegal by the Civil Court that the Drivers cannot be held guilty only on the basis of findings of the MACT. Against judgment the management filed appeals and appeals have been dismissed. Copies of judgments are Exhibit 'W6' & 'W7'. In similar manner similar punishment order was passed against Drivers of CTU have been declared illegal. Copy of the award Exhibit 'W8'.

9. Learned representative for the workers' union has argued that no accident took place with bus of the workman on 09.06.2000 and no FIR was registered for which MACT awarded compensation of ₹ 59,444/- and the same was paid out of funds created under Motor Accident Claim Act. He further argued that the management and employees union in a meeting had decided that no recovery shall be effected from the Drivers on Account of MACT award and copy of instructions dated 24.11.2000, 21.01.2001 and 18.11.2011 are Exhibit 'P3' to 'P5'. It is further argued that on the basis of copy of award of MACT, the workman was charge sheeted and the Inquiry Officer and punishment authority held the workman guilty on the basis of findings given by the MACT. No eye-witness was examined. Management No.1 have also filed affidavit before the Hon'ble Court in CWP No.12969 of 1996, on the basis of which CWP was decided in favour of the union as per order dated 19.09.2014. The management themselves have decided not to punishment the Driver on the basis of findings of the award of MACT and the Driver can be held guilty if his negligence is proved in departmental inquiry. It is further argued that the delinquent can be held guilty if evidence of

eye-witness was recorded before the Inquiry Officer and if the delinquent is given the chance to cross-examine the witnesses as held by the Hon'ble High Court after taking noting of the instructions Exhibit 'P3' to 'P5' while dismissing the RSA No.43999 of 2017 *vide* order dated 13.09.2017.

10. Further learned representative for the workers' union has argued that the Government employee who has been acquitted in criminal case on same set of allegations then the punishment order in departmental inquiry on the same allegation cannot be allowed to stand. He placed reliance on citation titled as **Punjab State through its Collector & Another Versus Ex-Constable Gulzar Singh, 2012(3) SCT 579 (P&H); Amar Nath Versus State of Haryana, 2001(2) SCT 521 (P&H) and M. V. Bijlani Versus Union of India & Others, 2006(2) SCT 454 (SC)**. He prayed for deciding this issue in favour of the workers' union and against the management.

11. On the other hand, learned Law Officer for the management tendered into evidence attested copy of inquiry file pertaining to the workman and show cause notice and argued that order passed by the competent authority is legal, valid and proper and as per due procedure according to the Punjab Civil Services (Punishment & Appeal) Rules. The inquiry conducted by the Inquiry Officer was fair and legal and according to rules & regulations. He placed reliance on the citations titled as **Deputy General Manager (Appellate Authority) & Others Versus Ajai Kumar Srivastava, Civil Appeal arising out of SLP(C) No.32067-68 of 2018 decided on 05.01.2021 by the Hon'ble Supreme Court of India; State of Bank of Bikaner & Jaipur Versus Nemi Chand Nalwaya, Civil Appeal No.5861 of 2007 decided by Hon'ble Supreme Court of India on 01.03.2011; State of Punjab & Others Versus Mohanjit Singh, RSA No.4399 of 2017 (O&M) decided by Hon'ble Punjab & Haryana High Court on 13.09.2017 and Kulwinder Singh Dhaliwal Versus State of Punjab & Another, CWP No.8691 of 2008 decided by Hon'ble Punjab & Haryana High Court on 27.11.2013** and prayed for deciding this issue against the workers' union and in favour of the management.

12. After giving my careful consideration to the rival contentions of both the sides, I find that main contention raised by the learned representative for the workers' union that no FIR was registered against the workman, accident has not been occurred due to negligence of the workman and further the MACT award was passed for a sum of ₹ 59,444/-, which was paid out of funds created under Motor Accident Claim Act and only on the basis of copy of award of MACT case the workman was chargesheeted so the workman is not at fault. But this arguments of learned representative for the workers' union does not inspire confidence as while deciding the present reference this Tribunal / Court is to see whether the order passed by the competent authority is legal, proper & valid and according to the Punjab Civil Services (Punishment & Appeal) Rules. As per oral & documentary on record the workman was charge sheeted on the allegation that the bus of the workman met with an accident in which the one person was injured and claim petition was filed by the injured person in which MACT awarded compensation of ₹ 59,444/- which is paid by State of Punjab. The fact is not denied by the workman himself that the Hon'ble MACT Court held him guilty for causing accident and after the decision of the MACT, Chandigarh the departmental inquiry was started as per Punjab Civil Services (Punishment & Appeal) Rules, 1970 in which the proper opportunity was granted to the workman to defend his case and he was given full opportunity to cross-examine the witness of the State. This fact is admitted by the workman during his cross-examination before this Court that he was appointed as Driver on 01.02.1990 in Punjab Roadways and report dated 11.11.2003 was served upon him. He was charge sheeted on 04.05.2005. He replied to the charge sheet. Full opportunity was given to him during the inquiry to cross-examine the prosecution witnesses. He had received the copy of inquiry report and he has duly replied the same and he was issued show cause notice. He also replied to the same. He was given the opportunity of personal hearing by the competent authority. He also received the punishment order dated 11.10.2007. He further admitted that it is correct that he has been given due opportunity by the appellate authority before passing the order in appeal filed by him. Hence, it is crystal clear that the inquiry was properly held and proper procedure has been followed by the management. Reliance is made on citation **Deputy General Manager (Appellate Authority) & Others Versus Ajai Kumar Srivastava (supra)** in which Hon'ble Supreme Court has held as under :—

"25.The Court / Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached

by the disciplinary authority if based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority is perverse or suffers from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact."

Further reliance is made on the citation **State of Bank of Bikaner & Jaipur Versus Nemi Chand Nalwaya (supra)** in which Hon'ble Supreme Court has held as under :—

"6. *It is now well-settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations."*

In the light of authority, the Labour Court can interfere only if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, *mala fide* or based on *extraneous* considerations but there is no such occasion in the present case as fair and proper opportunity has been granted to the workman. Authorities **Punjab State through its Collector & Another Versus Ex-Constable Gulzar Singh, Amar Nath Versus State of Haryana and M. V. Bijlani Versus Union of India & Others (supra)** relied upon by learned representative for the workers' union are not directly applicable in the present case, being distinguishable on facts, as in the present case a fair & proper inquiry has been conducted by the management by affording full & fair opportunity to the workman to defend himself. Hence, the workers' union has failed to prove that the demands raised in the demand notice dated 10.04.2013 by the workers' union is genuine & justified. Accordingly, this issue is decided against the workers' union and in favour of the management.

Relief :

13. In the light of findings on the issue above, this reference is declined and answered against the workers' union. Appropriate Government be informed. File be consigned to the record room.

The 24th September, 2021.

(Sd.) . . . ,
(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory Chandigarh.
UID No. PB0095.

Secretary Labour,
Chandigarh Administration.

CHANGE OF NAME

I, Sheela Devi, W/o Ganga Ram Yadav, House No. 2966, Sector 20-C, Chandigarh, have changed my name from Sheela Devi to Sheela Yadav.

[695-1]

I, Rupinder Gagneja, D/o Surinder Singh, W/o Ravinder Singh, R/o # 1272, Sector 21-B, Chandigarh, have changed my name to Rupinder Bajaj.

[696-1]

I, Muklesh, S/o Sriram Chauhan, R/o # 625, Kajheri, Chandigarh, have changed my name to Mithilesh Chauhan.

[697-1]

I, Luxmi, D/o Periyaswamy, R/o # 854, Vikas Nagar, Mouli Jagran, Chandigarh, have changed my name to Laxmi.

[698-1]

I, Vanshika Tyagi, D/o Sh. Pankaj Tyagi and W/o Sh. Sahil Gupta, R/o House No. 3544, Sector 35-D, Chandigarh, has changed my name to Vanshika Tyagi Gupta.

[699-1]

I, Sushira Suri, W/o Dhruv Suri and D/o Ram Gopal Gulati, R/o 1070, Sector 50-B, Progressive Enclave, Chandigarh, have changed my name to Sushira Gulati. All Concerned Note.

[700-1]

I, Jagmohan Singh, S/o Waryam Singh, #192/1, Sector 44-A, Chandigarh, changed my name Bhaanu Jagmohan Singh.

[701-1]

I, Bhupesh, S/o Late Sh. Dharam Pal, R/o H. No. 1178-B, Sector 46-B, Chandigarh, have changed my name from Bhupesh to Bhupesh Singh.

[702-1]

I, Naresh Kumar, S/o Prem Chand, R/o 710, Sector 30-A, R.B.I. Colony, Chandigarh have changed my name to Naresh Kumar Singla.

[703-1]

I, Sanjana, D/o Pramod Kumar Mahato, R/o # 1333-A, Sector 47-B, Chandigarh, have changed my name to Sanjana Mahato.

[704-1]

I, Shishu Pal, S/o Beni, R/o # 2089/2, Maloya, Chandigarh, have changed my name from Shishu Pal to Shiv Chand.

[705-1]

I, Amar Samanta, S/o Kanai Lal Samanta, # 574/3, Mohalla Dera Sahib, Manimajra, Chandigarh, have changed the name of my minor daughter from Surashi Samanta to Sneha Samanta.

[706-1]

I, Varinder Kumar, S/o Janak Raj, # H. No. 3231/1, Sector 41-D, Chandigarh, have changed my name to Varinder Bali.

[707-1]

I, Meena Panwar, S/o Sh. Bharat Singh, House No. 275, Milk Colony, Dhanas, Chandigarh, has changed my name from Meena to Meena Panwar.

[708-1]

I, Lakhvinder Singh Sra, S/o Jarnail Singh, # 3172, Sector 31-D, Chandigarh, have changed my name to Lakhvinder Singh.

[709-1]

I, Deepak Mittal, S/o Sh. Om Parkash Mittal, R/o 314, Rcs Society, Sector 48-A, Chandigarh, have changed my minor son's name from Aaditya Mittal to Aditya Mittal.

[710-1]

I, Bhawna Sharma, D/o Bhim Sen, R/o # 2227/1, Pipli Wala Town, Manimajra, Chandigarh, have changed the name of my minor daughter from Geet to Garvita Sharma.

[711-1]

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